



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

January 21, 2016

BY ECF

The Honorable Loretta A. Preska
Chief United States District Judge
Southern District of New York
Daniel Patrick Moynihan

United States Courthouse
500 Pearl Street, Chambers 2220
New York, New York 10007

**Re: Rajaratnam v. United States,
15 Civ. 5325 (LAP)
S2 09 Cr. 1184 (LAP)**

Dear Chief Judge Preska:

On June 16, 2015, defendant-petitioner Raj Rajaratnam moved under 28 U.S.C. § 2255 to vacate certain of his convictions in light of the Second Circuit's decision in United States v. Newman, 773 F.3d 438 (2d Cir. 2014), which narrowed the definition of what will satisfy the personal benefit element of an insider trading offense.

The Government respectfully writes to call to the Court's attention that on January 19, 2016, the Supreme Court granted a petition for a writ of certiorari in a case in which the answer to the question presented seems likely to bear directly on this issue. Specifically, the Supreme Court granted the petition in Salman v. United States, on the following question presented by the petitioner:

Does the personal benefit to the insider that is necessary to establish insider trading under Dirks v. SEC, 463 U.S. 646 (1983), require proof of "an exchange that is objective, consequential, and represents at least a potential gain of a pecuniary or similarly valuable nature," as the Second Circuit held in United States v. Newman, 773 F.3d 438 (2d Cir. 2014), cert. denied, No. 15-137 (U.S. Oct. 5, 2015), or is it enough that the insider and the tippee shared a close family relationship, as the Ninth Circuit held in this case?

Salman v. United States, No. 15-628, Pet. for Writ of Certiorari; see also United States v. Salman, 792 F.3d 1087 (9th Cir. 2015).

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The Government writes to ensure that the Court is aware of this development.

Respectfully submitted,

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